IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE B.PRAKASH RAO

WRIT PETITION No. 14048 of 2004

Between:

Smt.N.Sowmya, W/o N.Badrinath, aged 40 years,

Bus Owner,R/o D.No.13-2-108, R.C.Nagar Extension, Ananthapur

..... PETITIONER

AND

Registering Authority & Secretary, Regional Transport Authority, Anantapur, Ananthapur District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus declaring the Proceedings of the respondent herein vide Proceedings No.5999/C1/04, dated 3-8-2004, rejecting the application of the petitioner dated 27-07-2004 as illegal, arbitrary and contrary to Rule 334 (2) of APMV Rules, 1989 and consequently direct the respondent to accord permission for reduction of seating capacity in the petitioner's Stage carriage - AP.21/T.9816 plying on the Town Service Route - Narpala to Kasturiba Municipal High School (Anantapur) from 59 to 48 in all immediately by following Rule 334 (2) of APMV Rules, 1989.

Counsel for the Petitioner: MR.V.NARASIMHA REDDY

Counsel for the Respondent: GP FOR TRANSPORT

The Court made the following:

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ORDER:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

2. The petitioner, who is the owner of a bus bearing Registration No.AP.21/T.9816, filed this Writ Petition, inter alea, seeking a writ of mandamus to declare the proceedings dated 03.08.2004 of the respondent herein, rejecting his application, as illegal.

3. The case of the petitioner is that he has been operating a stage carriage bus bearing No.AP.21/T.9816 on the Town Service Route – Narpala to Kasturiba Municipal High School (Anantapur), which is having a seating capacity of 59 in all, which, according to the petitioner, is not required for the said services. Therefore, he filed an application to the respondent to reduce the seating capacity from 59 to 48. However, the said application was rejected by the respondent herein under the impugned orders dated 03.08.2004, mainly on the ground that the traveling passengers will be deprived of the seating accommodation and further it would be at the cost of loss of revenue to the Government. It is submitted that the said rejection is totally outside the scope as contemplated under Rule 334 (2) of A.P.M.V.Rules, 1989. Hence, the Writ Petition.

4. The learned Government Pleader appearing on behalf of the respondent submitted that having regard to the facts and circumstances, especially in view of the reasons as shown by the respondent, the rejection orders are perfectly valid and the petitioner is not entitled for any such indulgence from this Court.

5. Before considering the question involved in this writ petition, it is apt to refer to the aforesaid Rule viz. Rule 334 (2) of A.P.M.V.Rules, 1989, which reads as follows:

The minimum seating capacity of a public service vehicle other than a motor cab, an autorickshaw or an express stage carriage or a carriage with superior accommodation (Deluxe) or a contract carriage with superior accommodation (Deluxe) or an air-conditioned contract carriage or a stage carriage used partly for carriage of passengers and partly for carriage of goods within the body (Cargo Bus) shall be directly proportionate to the wheel base of the vehicle; and the minimum number of seats to be provided shall be as specified in Column (2) of the following Table leaving to the operator to increase the capacity consistent with other rules relating to the seating capacity, having due regard to the type of chassis

On which the body is built;

THE TABLE

Wheel base Minimum Seating Capacity including Driver and/or Conductor
1 2
254 Cms. To 293 Cms. 16 294 Cms. To 305 Cms. 20 306 Cms. To 343 Cms. 25 344 Cms. To 407 Cms. 30 408 Cms. To 432 Cms. 35 433 Cms. To 496 Cms. 45 497 Cms. To 534 Cms. 50 535 Cms. And above 55

Provided that the minimum number specified above may be reduced by two seats in the case of vehicle having separate entrance and exit and by four seats in the case of stage carriage permitted to ply on fair weather routes;

Provided further that minimum number so reduced may be further reduced by one-fifth in the

case of stage carriages operating on city or town service routes in case such reduction is to

provide necessary gangway to permit the standing passengers as provided under Rule 333:

Provided also that no reduction of seating capacity noted in the certificate of registration

shall be allowed after original registration of the vehicle unless such reduction is necessitated on

account of wrong calculation of the measurements or when the body is reconstructed.

6. On a bare reading of the said rule, it is apparent that the reason as shown by the respondent herein in rejecting the application of the petitioner will find no place and it cannot constitute any ground of such rejection. It is well settled that the authorities cannot reject any such request unless and until it is supported by the statute. This Court has already held in WP No.12426 of 1984 by its orders dated 28.08.1984 that any such rejection, outside the reasons, contemplated under similar such rule is illegal. Following the same, it is to be held that the impugned order of

rejection is illegal and liable to be set aside.

7. The Writ Petition is, accordingly, allowed. The respondent is directed to consider the request of the petitioner for reducing the seating capacity as sought for. No costs.

dsr/skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday, Fifteenth day of September, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Registering Authority & Secretary,
Regional Transport Authority, Anantapur,
Anantapur District

2. Two CCs to the Government Pleader for Transport,
High Court Buildings, Hyderabad (OUT)

3. Two CD copies.